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ACADEMIC FREEDOM IN MALAYSIA AND ITS RELATIONSHIP
WITH THE NATIONAL EDUCATION PHILOSOPHY

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Abstract

Academic freedom is one of the fundamental rights as set out in Article 10 of the Federal Constitution. Allah (*subhanahu wata'ala*) has bestowed every human being with the right to develop their minds for the benefit of mankind. Furthermore, with sound mind, humans can plan their lives in creating and forming certain systems for the development of human capital. Hence, this freedom can shape the effectiveness of the educational system of a country which in turn will have an important impact on the formation of human capital. However, some legal restrictions need to be taken into account in balancing one's rights and freedoms with common good to ensure the continuity of justice being upheld in a practical way. With the existence of the National Education Philosophy, Malaysia demonstrates a good commitment and is on the right track in driving the development of academic freedom. It should be implemented in a balanced way between fundamental liberties and freedoms with the observance of the principles of law that demand justice in its entirety to ensure the harmony and preservation of national education that can be achieved comprehensively. These principles will be the focus of the study for this paper which will look at how far the concept of academic freedom applies in Malaysia as well as the effectiveness of existing legislation in ensuring that it aligns with the concept of the rule of law as the basis for the enforcement of legal justice in an independent and sovereign country.

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1. Introduction

In developing good human capital, the balance between rights and legal applications should be rightly observed. Under Islamic legal principles, freedom of opinions and thoughts are very important in upholding truth in the society (2: 42 and 17: 81). The individual should be given the opportunity to express the truth against unethical or cruel actions in society. Prophet Muhammad (*sallallahu 'alaihi wasallam*) in a hadith narrated by Abu Said Al-Khudri (*radiyallahu 'anhu*) clearly emphasized the obligation in defending truth and eliminating evil deeds by all Muslims in three categories, i.e., by using his power (hands), speech or by heart. Kamali (as cited in Malik, 2014), wrote that in the process of upholding justice in the society, certain rights should be observed. Freedom of speech and preservation of honour of the individual are of utmost importance in making this a reality. The individual should be held responsible for any action done by him or her as clearly stated by Allah (*subhanahu wata'ala*) (in Al-Quran: *Surah Al-Zalzalah*, (99): 7-8).

According to Fuchs (1963), rights and freedom in the academic field should include all communities of the academic sector, i.e., colleges and universities, emphasizing on the functions of these groups to pursue learning and teaching activities without interference from any party. Academic freedom covers freedom of opinions and thoughts comprising the rights of the academics to conduct their activities without any unnecessary interference and restrictions (Van Alstyne, 1973). As such, it can be simplified as freedom to teach, conduct research, choose the field of the intended research, use the methodology that suitable for the research according the experts in the said areas, and publish the outcomes of the research for the sake of the public usage (Malmström & Oberleitner, 1996). As long as the professional standards in the said areas are observed by the academics, their rights should be affirmed and protected by the law (Fisk, 1973).

The roles of higher learning or university in Malaysia can be listed as follows:

- i. Conducting academic programmes as per prescribed by the relevant authorities;
- ii. Implementing the curriculum that meets the requirements of the job markets;
- iii. Focussing on research and development activities;
- iv. Conducting commercial and non-commercial activities for the development of knowledge and expertise;
- v. Preparation focussed on intellectual and human capital development;
- vi. Enhancing *Bumiputra*¹ status as prescribed by the National Development Policy;
- vii. Ensuring human capital at the graduate level; and
- viii. Strengthening quality and image in terms of intellectual development.

¹ Bumiputera or Bumiputra is a Malaysian term to describe the Malay race and other indigenous peoples of Southeast Asia, and used particularly in Malaysia. The term comes from the Sanskrit word *bhumiputra*, which can be translated literally as "son of the land" or "son of the soil". In the 1970s, the Malaysian government implemented policies which The Economist called "racially discriminatory" designed to favour bumiputras to create opportunities, and to defuse inter-ethnic tensions following the extended violence against Chinese Malaysians in the 13 May Incident in 1969. These policies have succeeded in creating a significant urban Malay middle class. They have been less effective in eradicating poverty among rural communities. Some analysts have noted a backlash of resentment from excluded groups, in particular the sizeable Chinese and Indian Malaysian minorities. [Definition.net. (2018). *Definition for Bumiputra*. Retrieved on January 2, 2018. <https://www.definitions.net/definition/bumiputera>]

As such, higher learning institutions should be entrusted with developing the academic sector by recognizing its role in the process of teaching and learning as its main thrust. Academic freedom should be upheld and practiced by following the rule of law without any interference and prejudice for the purpose of preparing better human capital with a first-class mentality

2. Problem Statement

Among the key points of the Malaysian National Education Philosophy is to produce intellectuals who are capable of contributing to the development of the country. This will be achieved if they are given the opportunity to produce, voice and express their work in writing or verbally, without any prejudice. The full potential of individuals can be achieved by establishing the fundamental rights and freedoms of academics as in academic freedom, without pawning the rule of law, to provide opportunities for them to develop critical and open-minded thinking.

3. Research Questions

Among the Research Questions are:

- 3.1 What is the concept and scope of education?
- 3.2 What is the concept and scope of academic freedom?
- 3.3 What is the concept and scope of the National Education Philosophy?

4. Purpose of the Study

The main purpose of this study is to identify and examine the relationship between academic freedom In Malaysia and the National Education Philosophy. This can be achieved by looking into the importance of these two aspects in achieving a better quality educational system in Malaysia.

5. Research Methods

The Legal Research Method will be adopted in conducting this research through the comparative and narrative methods based on materials such as statutes, law reports, constitutional and legal commentaries. In adopting the comparative method, the researchers will examine both aspects of laws practised in Malaysia, i.e. the Malaysian laws and the Islamic legal principles.

6. Findings

Education plays the main role in creating the future generation for the sake of the development of the society. Education can be interpreted as cultivating the potentials, developing the abilities, attitudes and other behaviours to optimize the potential of the individual (NCERT, 2014). These values may be achieved through knowledge, skills, habits and attitudes of the institutions (ibid).

There are five concepts of education as follows (Van Rossum & Hammer, 2010):

- i. Learning to develop knowledge;
- ii. Learning to retain memory;
- iii. Learning to gain information (for the sake of practice);
- iv. Learning to appreciate values; and
- v. Learning to analyze the facts of the subject matter.

There are seven principles of inclusive education, namely (Tanenbaum, 2018):

- i. Guiding the students;
- ii. Delving into various characters;
- iii. Avoiding biasness;
- iv. Advocating social justice;
- v. Adopting pertinent materials;
- vi. Creating awareness on culture and religions; and
- vii. Shaping and blending lessons properly;

In order to excel in education, The European Foundation for Quality Management (EFQM), listed certain criteria underlying the 'Excellence Model' as guidelines to achieve the target as follows:

- i. Power to control the group;
- ii. Guidelines and blueprint;
- iii. Administering the people;
- iv. Partnership and capital; and
- v. Process management.

In Islam, knowledge is considered value-laden and not value-free. Value-laden refers to utilizing one's mind and intelligence in order to use one's thinking ability according to Islamic precepts (Al-Faruqi, 2015). Islam focusses on two strands of educational values, that is, the worldly life and religious values (Sudan, 2017). The theory of education in Islam can be laid down under the following elements; *ta'lim* (teaching), *tahdhib* (preservation) and other sub-theories like *hikmah* (prudence), *'adl* (due process of law), *amanah* (veracity) and as the extreme is *khalifah* (leadership) and *'ibadat* (devotion) (ibid, p.23). According to Al-Ghazali, the main aim of education in Islam is to prepare human beings to abide by Allah (*subhanahu wata'ala*)'s rules and regulations (commands), for the assurance of happiness in this world and the hereafter (ibid, p.25). In summary, the traits of an educated individual in Islam should be (Yasin & Jani, 2013)

- i. Devoted to Allah (*subhanahu wata'ala*)'s commands;
- ii. Open minded in his worldview;
- iii. Comprehensive identity;
- iv. Determination;
- v. Awareness; and
- vi. Self-control.

6.1. The Concepts of Academic Freedom: Universal Declaration, Malaysian Laws and Islamic Perspectives

The basic idea of academic freedom was introduced in 1811 by the University of Berlin under the principle of *Lehrfreiheit* (“freedom to teach”) and *Lernfreiheit* (“freedom to learn”) (Encyclopædia Britannica, 2018). Following that, the term academic freedom was enhanced and developed in order to suit the demands of the current situation and complexities of society. Academic freedom is the combination of two inter-related rights, that is, educational institution and the academicians or scholars who can be considered the key-players in making the educational system successful (McGuinness, 2002). These two elements working together will optimize the development of knowledge by taking a number of approaches to promote academic freedom in matters of teaching and learning, course contents, assessment, student-lecturer relationship, student-institution relationship, teaching methodology, input of the information and others (ibid).

According to Downs (2009), academic freedom concerns the freedom of scholars to act upon their own fields of teaching professionally without any interference. The Dar-es-Salam Declaration on Academic Freedom and Social Responsibility of Academics (University of Minnesota, 1990) clearly states that academic freedom comprises the right of freedom of the individual and group of people involved in the academic field to conduct the processes of teaching and learning, research, publications, discussions, documentations, creation and other areas related to academics (Part I – VI of the Declaration). It should be given without any unreasonable interference from any party. The 1997 Recommendation by the United Nations Educational, Scientific and Cultural Organization (UNESCO), mentions that teachers are the change-makers of society, and as such there should be no unreasonable interference in the pursuance of their tasks. They should be given the right to express their opinions freely, publish and disseminate their research without any censorship, free to participate in any professional body related to their field, and the most importantly, they are free to discuss their subject matter in the class (ibid).

Academic freedom also can be divided into three areas (Kayrooz, Kinnear & Preston, 2001) namely:

- i. Individual autonomy referring to the guidelines set up by the collegiality and the institutions;
- i. Collegial autonomy involving the managing of the curriculum, assessment, educational development, research and social welfare issues.; and
- i. Institutional autonomy involving political, governmental, commercial, ecclesiastical or religious matters, and internal interests to the university.

There are four primary dimensions of academic freedom (Finkin, 2009), namely:

- i. research and publication;
- ii. teaching;
- iii. intramural speech (means that teaching personnel are not only allowed to teach according to their knowledge, but that they can take part in the administration of their institutions (UNESCO, 1997), which refers to our classroom discourse, content of journal articles and conference presentations, or our opinions from the standpoint of our disciplinary expertise (Eron, 2015); and

- iv. extra mural speech (which gives teachers the capacity to share their research outcomes and disseminate the knowledge acquired for example, the kind of thing we say at the meeting or in letters to the editor) (UNESCO, 1997).

The development of the higher learning institutions in Malaysia (Zaini, 2009) can be illustrated as below:

- i. “Early Phase where the focus was on providing institutions and facilities to cater to the needs of human capital in certain areas such as education, administration, human sciences and others.
- ii. Expansion Phase occurred when the demand towards fulfilling *Bumiputra* needs came into existence with the implementation of the National Development Policy.
- iii. Consolidation Phase where the government started to enhance the skills of human capital by sending students to other countries, giving more emphasis on producing human capital at graduate level and exchanging knowledge with other developed countries by exchanging educators and other officers directly involved in this area.
- iv. Globalization Phase where the higher learning institutions have to compete at the international level” (pp. 26-28).

Everyone has the right to freedom of opinion, expression, peaceful assembly and association which shall be given to the respective person in upholding the law with regard to human rights (as per stated under United Nations Universal Declaration of Human Rights, 1948). The same declaration states that there is an important obligation to exercise human rights with responsibility. This means that:

- i. Rights and freedoms may be limited by law solely for the purpose of securing due recognition and respect for the rights and freedom of others;
- ii. Rights and freedoms may be limited by law solely to meet the just requirements of morality, public order and the general welfare in a democratic society, but these restrictions or limitations should be exercised with extra care without lifting the rights of freedom of the people easily and should be exercised with reliable and relevant justification; and
- iii. No state, group or person has the right to engage in any activities to perform in any acts aimed at the destruction of any rights and freedoms set forth in the Universal Declaration of Human Rights.

When the law cannot safeguard these rights, democracy will collapse. The preservation of the basic feature of fundamental liberties was emphasized by the former Secretary General of the United Nations, Kofi Annan, where he said that: “Human rights are the foundation of human existence and coexistence. Human rights are universal, indivisible and interdependent. Human rights are what make us human. They are the principles by which we create the sacred home for human dignity” (United Nations, 2014).

The Malaysian Federal Constitution clearly mentions the freedom of speech under Article 10 (1) (a) as part of the protection of the fundamental liberties which can be examined as follows:

- i. The availability of freedom of speech are specified for Malaysian citizens only;

- ii. Parliament may regulate to limit the rights on a specific ground, such as, for the protection of the interests of the people at large as decided by Raja Azlan Shah J in the case of *Public Prosecutor v Ooi Kee Saik*, that anarchism and disorder will take place if there is an absolute or uncontrolled freedom;
- iii. In safeguarding the interests of the people, the positive interference by the state, in the matter of political and civil rights, is justified by the law. In the case of *Lau Dak Kee v Public Prosecutor*, the court stated that positive restriction in upholding the interest of the people is justified by Article 10 of the Federal Constitution;
- iv. Freedom of speech should be preserved because it is one of the platforms for expressing the truth and ensuring the highest intellectual, aesthetic and political achievements are properly preserved; and
- v. There are two kinds of rights, i.e., direct (seditious, secrecy, publication and malicious false news), or symbolic speech (flag-burning and others).

Under the Malaysian laws, freedom of speech also involves the following areas, i.e.:

- i. Freedom of assembly mentioned in the Federal Constitution [Article 10 (1) (b)] where in the process of conducting an assembly, the people can always express their opinions openly about any issues in question during the protest.
- ii. Freedom of association that is mentioned in the Federal Constitution [Article 10 (1) (c)]. The relationship between association and opinions cannot be separated because when an individual gathers with others, of course the development of ideas or opinions among them will occur. Such gatherings can lead to discussion of issues regarding the vision and mission of their association, so, freedom of speech indirectly involves with this freedom, i.e., freedom of association.
- iii. Freedom of religion mentioned in the Federal Constitution (Article 11) where the word 'propagation' itself needs opinions, discussions, meeting and expressing of opinions.
- iv. Freedom of printing presses and publication as mentioned in the Printing Presses and Publication Act 1984. This Act sets the regulations on printing presses, the printing, production, reproduction and distribution of publications and importation of print materials from abroad.
- v. Freedom of information is a very wide area because it covers almost all aspects of life, i.e., media, printing materials, secrecy, education and others. These provisions are noted in the Security Offences (Special Measures) Act (SOSMA), the Official Secrets Act (OSA), the Evidence Act, Section 3 (3) of the Communications and Multimedia Act (CMA) and the Multimedia Bill of Guarantees (regarding the internet), the Sedition Act, the Defamation Act 1957 and others. In allowing the public (Malaysians) to access the official state documents, the state of Selangor had enacted and passed the Freedom of Information Enactment (Selangor) 2010 on 1 April 2011, and the state of Penang too had passed the Freedom of Information Bill on 4 November 2011.

- vi. Academic freedom is the freedom that should be given to academicians to teach and conduct the teaching and learning process without fear of being sanctioned by the law. Academic freedom is as not universal as free speech. This freedom is only given to the scholars who are directly involved with the process of teaching and learning in the educational institutions. They should couple or include this freedom with honest, accurate finding of their research and teach their students without bias. Rohlf (2018) believed that the spirit of intellectual community is contributed through knowledge coupled with freedom and respect of people's ideas.

According to Islamic perspectives, academic freedom is one of the main discussions under freedom of expression. According to Abdus-Salam Basuni (2007), freedom of expression or speech should be respected by all parties. Islam encourages all people to express their opinions in a way to eliminate tyranny (ibid, p.41). Its importance can be stated as follows:

- i. Islam encourages the practices of consultation (*syura*) and mutual sharing of ideas (ibid, p.41). Allah (*subhanahu wata'ala*) says: "So by mercy from Allah, [O Muhammad], you were lenient with them. And if you had been rude [in speech] and harsh in heart, they would have disbanded from about you. So pardon them and ask forgiveness for them and consult them in the matter. And when you have decided, then rely upon Allah. Indeed, Allah loves those who rely [upon Him]" (Al-Quran: *Surah 'Aali-Imraan* (3): 159). Allah (*subhanahu wata'ala*) also says: "And those who have responded to their Lord and established prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them, they spend" (Al-Quran: *Surah 'Aali-Imraan* (3): 159).
- ii. Expressing the truth is very much emphasized in Islam as said by Prophet Muhammad (*sallallahu 'alaihi wasallam*): "A word of justice uttered before a tyrannical ruler is the greatest of jihad (holy war)" (Abdus-Salam Basuni. *op. cit.* p. 41). The Prophet Muhammad (*sallallahu 'alaihi wasallam*) also said: "The basis of faith is sincerity. We asked: O Prophet of Allah! For whom? He said: For Allah, the Glorious Qur'an, His Prophet and the Muslims, both leaders and masses" (ibid, p.41)
- iii. The Prophet Muhammad (*sallallahu 'alaihi wasallam*) always listened to the opinions expressed by his companions during his lifetime (ibid, p.41).
- iv. Islam provides appropriate protection to those who are fundamentally expressing the truth of the matters under dispute (ibid, p.47), as Allah (*subhanahu wata'ala*) says: "Let no scribe be harmed or any witness. For if you do so, indeed, it is [grave] disobedience in you. And fear Allah. And Allah teaches you. And Allah is Knowing of all things" (Al-Quran. *Surah Al-Baqarah* (2): 282).
- v. The Islamic legal principles should be adhered strictly in protecting the freedom of expression or speech as stated under Article 22 of the Cairo Declaration on Human Rights in Islam (University of Minnesota (2014). There should be equal and just opportunity towards protecting this freedom for the sake of creating peace and harmony in the society (ibid. Articles 22(a) - (d) of the Cairo Declaration on Human Rights in Islam). Any element of hatred should be avoided (*ibid.* Articles 22(a) - (d) of the Cairo Declaration on Human Rights in

Islam). From these statements, the researcher is of the opinion that even though Islam sees freedom of speech as a vital right for the people to be observed and provided for under the respective legislations, at the same time certain guidelines should be followed with, with respect to the rule of law because even a slight infringement of such rights, it will be directed towards the collapse of the justice system and threaten the tranquility of social life. Allah (*subhanahu wata'ala*) says: "When you received it with your tongues and said with your mouths that of which you had no knowledge and thought it was insignificant while it was, in the sight of Allah, tremendous" (Al-Quran. *Surah An-Nuur* (24): 15).

The importance of protecting honour, has been stressed by Allah (*subhanahu wata'ala*) in many occasions of the Quranic verses. According to the Hanafī, Maliki and Zahiri schools of thoughts, the crimes under *qazaf* are considered as *huququl-Allah*² is the right of Allah (*subhanahu wata'ala*) (Emon, 2006)) because the crime is prescribed in Al-Quran Al-Kareem and its punishment is to protect the public interest and safeguard the individual's honour and reputation (Al-Kasani, & bin Masud, 2005). However, according to Imam As-Syafi'e and Imam Hanbali, *qazaf* is considered as *huququl-ibad* (the right of mankind) because it can only be administered by the demand of the victim (Mohammad Shabbir, 2002)). Mohamed S. El-Awa (1993) stated that *qazaf* is categorised under the *huququl-Allah* because the punishment and the nature of the crime had been prescribed in Al-Quran Al-Kareem and attracts the sphere of public interest (ibid). Furthermore, the imposition of punishment cannot be dependent upon the request of the victim (ibid).

According to Mohammad Hashim Kamali (1998), in maintaining the stability of the socio-political order, people should observe freedom of expression or speech in a right manner because under the Islamic legal principles, it can be considered as one of the *masalih daruriyyah* (essential interests)³ (ibid. p. 166). Freedom of expression or speech also can be included under the protection of the five principles of *Syari'ah* (*Maqasid as-Syariah*), i.e., protection of faith, life, intellect, lineage and property (ibid. p. 166). We cannot simply utter or write about others without any relevant evidence to support such allegations because it is considered violating honour of others as the Prophet Muhammad (*sallallahu 'alaihi wasallam*) said: "Narrated by Ibn 'Umar (*radiyallahu 'anhuma*): At Mina, the Prophet Muhammad (*sallallahu 'alaihi wasallam*) said, "Do you know what is the day today?" The people replied, "Allah and His Messenger know it better". He said, "It is the forbidden (sacred) day. And do you know what town is this?" They replied, "Allah and His Messenger know it better". He said, "This is the forbidden (sacred) town (Makkah). And do you know which month is this?" The people replied, "Allah and His Messenger know it better". He said, "This is the forbidden (sacred) month". The Prophet; added, "No doubt, Allah made your blood, your properties, and your honour sacred to one another like the sanctity of this day of yours in this month of yours in this town of yours." (Muhammad Muhsin Khan, 1997).

The Prophet Muhammad (*sallallahu 'alaihi wasallam*) emphasised the importance of telling the truth in our daily life and Allah (*subhanahu wata'ala*) will reward such persons with Paradise. The Prophet

² The conceptual heuristic of "rights of God" and "rights of individuals" (*huquq Allah, huquq al-I'ibad*) as an interpretive mechanism to frame their naturalistic assumptions and apply them in legal analysis to create and distribute rights, duties, and public commitments.

³ The preservation of the religion, life, mind, offspring and wealth.

Muhammad (*sallallahu 'alaihi wasallam*) said that: “Whoever gives up telling lies in support of a false claim, a palace will be built for him on the outskirts of paradise...” (al-Khattab, 2007).

The offences that may violate freedom of speech or expression in the Islamic legal principles can be divided into eight categories as follows:

- i. Hurtful words (*al-jahr bi'l-si' min al-qawl*) (Mohammad Hashim Kamali. *op. cit.* p. 167). Allah (*subhanahu wata'ala*) says: “Indeed, those who like that immorality should be spread [or publicised] among those who have believed will have a painful punishment in this world and the Hereafter. And Allah knows and you do not know” (Al-Quran. *Surah An-Nuur* (24): 19). Allah (*subhanahu wata'ala*) also says: “Who spend [in the cause of Allah] during ease and hardship and who restrain anger and who pardon the people - and Allah loves the doers of good” (Al-Quran. *Surah 'Aali 'Imraan* (3): 134). Allah (*subhanahu wata'ala*) further says: “And whoever is patient and forgives - indeed, that is of the matters [requiring] determination” (Al-Quran. *Surah Ash-Shura* (42): 43).
- ii. Malicious allegation (*qazaf*) (Mohammad Hashim Kamali. *op. cit.* p. 171). Allah (*subhanahu wata'ala*) says: “And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient” (Al-Quran. *Surah An-Nuur* (24): 4).
- iii. Defamation through writings (*iftira'*) (Mohammad Hashim Kamali. *op. cit.* p. 175).
- iv. Embarrassing others by gestures, words or any related actions (*sabb; sham*) (*ibid.* p. 177). Allah (*subhanahu wata'ala*) says: “And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus, we have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do” (Al-Quran. *Surah Al-An'am* (6): 108).
- v. Cursing or using the bad language against others (*la'an*) (Mohammad Hashim Kamali. *op. cit.* pp. 182-185). Allah (*subhanahu wata'ala*) says: “And who is more unjust than he who invents a lie about Allah? Those will be presented before their Lord, and the witnesses will say, "These are the ones who lied against their Lord." Unquestionably, the curse of Allah is upon the wrongdoers” (Al-Quran. *Surah Hud* (11): 18).
- vi. Infidel accusation (*takfir al-Muslim*) (Mohammad Hashim Kamali. *op. cit.* pp. 186-190). Allah (*subhanahu wata'ala*) says: “O you who have believed, when you go forth [to fight] in the cause of Allah, investigate; and do not say to one who gives you [a greeting of] peace "You are not a believer," aspiring for the goods of worldly life; for with Allah are many acquisitions. You [yourselves] were like that before; then Allah conferred His favour upon you, so investigate. Indeed Allah is ever, with what you do, Acquainted” (Al-Quran. *Surah An-Nisaa'* (4): 94). The Prophet Muhammad (*sallallahu 'alaihi wasallam*) said: “Whoever charges another person with disbelief, or calls him an “enemy of God”, while this is not so, will have the charge redound upon himself” (Mohammad Hashim Kamali. *op. cit.* pp. 188. Narrated by Abu Dzar Al-Ghaifari (*radiyallahu 'anhu*).
- vii. Slander (*fitnah*) (*ibid.* pp. 190-212). The word '*fitnah*' is mentioned more than sixty times in Al-Quran Al-Kareem and eighty six *hadiths* recorded in *Sahih Al-Bukhari* in its own chapter,

i.e., *Kitab Al-Fitan* (ibid. p. 190). In Al-Quran Al-Kareem, Allah (*subhanahu wata'ala*) says: "...And fitnah is greater than killing..." (Al-Quran. *Surah Al-Baqarah* (2): 217).

- viii. Insulting Allah (*subhanahu wata'ala*) and His Messenger (*sabb Allah wa sabb al-Rasul*) (Mohammad Hashim Kamali. *op. cit.* p. 213).

In achieving these phases, there is no doubt that the academic freedom should be given more space by the government to the academic players. Academic freedom benefits the society for the purpose of creating a knowledge-society which will serve the nation with more creative thinking.

In Al-Quran Al-Kareem, there are many verses that urge man to reflect on and think of every occurrence in this world based on knowledge and common sense before doing any action or condition. A more vigilant appeal is made to man to study and carefully observe what is contained in Al-Quran Al-Kareem. Hence, in various contexts, Al-Quran Al-Kareem asserts that man must reflect upon everything that happens to find and understand the true nature of truth.

Freedom and the right of fellow human beings must be respected and honoured because without it there is no guarantee of peace or prosperity in a country. The existence of legitimate unity is the absolute requirement to impose the principle of freedom for all, because without it is impossible to determine or defend any liberty. It should be emphasized that the principle of equality triggered by Al-Quran Al-Kareem and described by the Prophet is very comprehensive as it covers all aspects of similarity expressed by thinkers and scholars.

Legal equality is a concept that encompasses all the angles and means of equality in its perfect form. Each individual is given the freedom of action, the knowledge of the right and the wrong, and the moral considerations so that he can make judgments and distinguish between good and bad, right and wrong, and fair and unfair. He is completely free to make any decision and take any action he likes with his own willingness, but he must bear the consequences of all the deeds he has performed responsibly because this condition has been revealed by Allah in Surah Al-Zalzalah⁴. The Messenger also said not to hurt anyone and reminded all of mankind that they will meet their god and Allah will surely make calculations for all that has been done throughout this life. Islam forbids its people from committing infringement of the rights and honor of others (Surah Al-Hujurat, 49: 11); however, individuals or groups of individuals have the right to agree or otherwise in any case that does not have the specifically in Al-Quran Al-Kareem (proofs) (Surah An-Nisa', 4: 59). According to the Islamic point of view also, Al-Quran Al-Kareem clearly prohibits Muslims to violate the rights of others (Surah Al-Baqarah, 2: 194)⁵.

When discussing academic freedom, the two main aspects of intellectualism should also be elaborated more, namely:

- i. 'Aql [Syed Muhammad Naquib At-Attas (1989)]
- ii. Intellect [Syed Hussein Alatas (1977)]

⁴ See also: Al-Quran: Surah Al-An'am, 6: 94, Surah Maryam, 19: 93-95, and Surah Maryam, 19: 77-80.

⁵ See also: Al-Quran: Surah Al-Baqarah, 2: 190, Surah Al-Maidah, 5: 3, Surah Al-A'raf, 7: 33, Surah Yunus, 10: 23, and Surah Al-Baqarah, 2: 99.

According to Muhammad Syed Tantawi (2015), there are some important Islamic principles when discussing the matter, saying:

- i. Every matter to be debated shall be based on the truth and far from the lies and anything that is not based on the facts.
- ii. The debate shall be applicable to the topics discussed.
- iii. Clear and logical arguments shall be made to strengthen the argument of a truth.
- iv. Discussion shall be conducted in a polite way.
- v. The discussions held shall be transparent and open.
- vi. The arguments shall be conducted with civilized and prudent speech.
- vii. Every argument and fact shall be examined carefully, correctly, fairly and transparently.
- viii. Arguments shall be based on strong reality and accurate information, not according to uncertain information (or based on presumption).

6.2. The Concept of the National Education Philosophy

Academics serve as mentors and facilitators in guiding students in a predetermined class, so the creativity of academics is essential in ensuring the process of teaching and learning is smooth and creative to create open minded and able human capital competent in all forms of knowledge in fair and equitable terms. This guidance requires the space and the freedom of the academics to make the class interesting and all forms of discussion done without any unnecessary restrictions. In this case, academic freedom plays a vital role in opening the minds of educators and students to achieve success. Self-confidence and openness can be constructed if there is no unreasonable intervention. It coincides with the principles outlined in the National Education Philosophy, which among others outlines that education aims to develop the individual's physical, intellectual, social and emotional well-being and to further enhance the skills, abilities, knowledge and experience of the individual.

Mok Soon Sang (2009), emphasized that the Islamic Education Philosophy is based on seven divisions (ibid, pp. 134-135), namely:

- i. Godliness (monotheism)
- ii. Trust in God's messengers
- iii. Belief in God's revelations to his servants
- iv. Human beings have the potential in the development of spirituality and spirituality
- v. Each individual is responsible for his own actions
- vi. Worldly life and the hereafter
- vii. Universal equality and brotherhood between all Muslims.

According to Syed Muhammad Al-Naquib Al-Attas (ibid, p. 136), today's Islamic science encompasses two major disciplines, namely:

- i. Religious Discipline: the teachings of the Al-Quran Al-Kareem, theology, metaphysics, Arabic and literature.
- ii. Cognitive discipline: humanity, environment, applied science and technology.

Education according to Islam is an effort to improve itself in order to establish the qualities of perfection as a man of faith, knowledge, virtue and sincerity. According to some other Islamic scholars (ibid, p. 136):

- i. Mohammad Qatb: education is the process of forming a whole and balanced human. The primary aim of education is to develop human intellectual, physical, emotional and spiritual potentials to a better level.
- ii. Dr. Mohd Athiyah Al-Abrasyi: the education is aimed at forming noble and high-ranking human beings based on Islamic teachings.
- iii. Amal Al-Shaibani: education as a human resource for life in the world and the hereafter.
- iv. Al-Ghazali: the education process should include the intellectual aspect of physical exercise and noble moral values, courage and respect.
- v. Hamka: education is a process that can shape good behavior, a courageous attitude toward the virtue of a noble virtue such as humility, patience, respect your fellow human beings.

According to Sharifah Alwiah Al-Sagoff (ibid, p. 124), education is a process involving:

- i. Formal education
- ii. Exercise
- iii. Physical, intellectual, social and emotional development of an individual
- iv. Indoctrination with the aim of getting students to believe what is being said
- v. Continuous process for the development of a lifelong individual
- vi. Integrated activities to achieve goals such as acquiring knowledge and attitude skills by integrating
- vii. A discipline; art and science.

The concept of education philosophy can be summarized as follows (ibid, p. 125):

- i. The definition of an education philosophy must be determined based on philosophical features, are determined by speculative, normative and analytical methods. According to Frankena (cited in Sang, 2009) the philosophy of education associated with science should be based on its main criteria, namely epistemology, followed by metaphysical applications, deductive methods and logic to form pedagogical theories.
- ii. Education philosophy should be aligned with educational theory. Frankel (cited in Sang, 2009) describes the definition and education is a systematic approach application of the educational philosophy.
- iii. The philosophy of education contains its own characteristics. The basic question of education philosophy is "What is education?" Thus, the outcome of the educational philosophy is the result of an intellectual study to determine the purpose of education, objective reality, fundamental principles and values.

Facione (1990) interpreted education as a rational and critical thinking effort on important matters. Therefore, the philosophy of education can be seen as the result of rational and critical thinking on the basis

of education (ibid, p. 125). The thrusts of the National Education Philosophy (Al-Hudawi, Musah, & Fong, 2014) can be listed as follows:

- i. Produce citizens who are responsible and can fulfill their obligations as a citizen
- ii. Produce progressive, skilled and efficient citizens so as to enable them to carry out productive and productive tasks, in order to contribute to the nation's progress and development
- iii. Produce people who can understand and accept and practice the principles and ideals of democracy in accordance with the Constitution
- iv. Produce people loyal to the King and love the nation
- v. To produce people who understand and practice the principles of *Rukun Negara*⁶ and to be tolerant in order to create multi-racial unity
- vi. Reducing the gap between social, economic and community-based opportunities by providing educational facilities to the less fortunate.
- vii. Developing individuals to have a first-class mentality.
- viii. Developing individuals with a noble character,
- ix. Developing the attitude of responsibility for self, society, religion and country,
- x. Serving and contributing to the community and country
- xi. Having a balanced and unified character.

The National Education Philosophy is an educational system that evolves into the preceding position by expressing the underlying fundamental principles and values and forming Malaysia's education system from the lowest to the highest ie. higher education institutions such as universities. The National Education Philosophy also explains the goals and objectives of education for individuals and the country (Nota Guru Pelatih, 2011).

The purpose of the National Education Philosophy for individuals is to produce knowledgeable, noble and responsible human beings who are also good citizens. Education is the fundamental process for the development of good, balanced and integrated human beings, to achieve the country's aspirations. In general, the goal of higher education is not only to gain a degree or diploma but to provide comprehensive and balanced human development in order that individuals become a human being, family member and a knowledgeable, responsible, noble and devout citizen (ibid).

The integrated concept of education in Malaysia combines the elements of human intellectual, spiritual, emotional and physical harmony based on God's trust and obedience (ibid). We need to change the educational approach from academic orientation to a universal value-generating mode because the National Education Philosophy has set the following goals: "This effort is to produce Malaysians who are

⁶ The Rukun Negara was formulated on 31st August 1970, on Malaysia's 13th National Day. The decision to formulate this national ideology was triggered by the racial clash that took place on 13th May 1969. The Rukun Negara consists of five principles:

1. Kepercayaan Kepada Tuhan (Belief in God)
 2. Kesetiaan Kepada Raja dan Negara (Loyalty to King and Country)
 3. Keluhuran Perlembagaan (Supremacy of Constitution)
 4. Kedaulatan Undang-Undang (Rule of Law)
 5. Kesopanan dan Kesusilaan (Good Behavior and Morality)
- (Source: Perdana Leadership Foundation, 2018)

knowledgeable, skilled, noble, responsible and capable of achieving well-being and contributing to the harmony and prosperity of families, communities and countries” (ibid).

The National Education Philosophy is the cornerstone of the national education system so that all educational programs and activities are the emanations of the principles and values contained in the philosophy. Wan Mohd Zahid Mohd Noordin who was the Director General of Education during the enactment of the National Education Philosophy, stated that the philosophy statement is the landmark of the reformation of education as well as the mission statement of national education (ibid).

One of the concepts of “comprehensive and integrated individual potential development” expressed in the National Education Philosophy is related to the integration of the Malay language in all subjects or knowledge taught, except for other language subjects (ibid). The concept of integration of knowledge and skills involving the Malay language itself has transformed the ideas and approaches in Malay language education in schools, in particular (ibid).

7. Conclusion

By implementing academic freedom in our higher learning institutions’ processes of teaching and learning, the knowledge culture will definitely increase the level of soft skills of human capital which will indirectly upgrade critical and creative thinking skills to develop and align our country on the correct track based on the National Education philosophy. The absorption of knowledge culture can be achieved by implementing the following plan-of-actions namely:

- i. Emphasizing the importance and value of knowledge as the highest aspect to academic staff and related support staff.
- ii. Putting the right person at the right positions in term of respect, role and responsibilities.
- iii. Encouraging all key-players in academia to participate in trainings, seminars, conventions, conferences and other platforms that can increase their professionalism in their respective areas.
- iv. Creating better learning environments by having professional, intellectual and open-minded discussions in classes.
- v. Appreciating the ideas, opinions or new inventions presented by students or academics. Incentives should be given in order to encourage them to conduct more research in their interest areas.

Academics should be given full freedom to conduct their classes and research, publish, and determine their subject matter provided that they are not violating the legal restrictions set by the authorities through the statutes adopted in Malaysia. As such, the understanding should be made, understood and signed between the authorities and the institutions to give the autonomy to the institutions to decide the appropriate areas of the study.

Academics should be provided with a clear explanation of the field of work and the things they can assign in their teaching assignments. The institution shall, at the same time, monitor and issue instructions reminding the instructors of the relevant law to prevent the occurrence of violations of academic freedom. The institution shall also prevent the occurrence of injustice in any case relating to academic freedom. Clear

terms of reference should be indicated on their limitations of their areas of study. Academics should avoid discussing matters unrelated to their respective areas of expertise or controversial issues, so that professionalism and sensitivity is maintained.

Academics are examples and models of the society to be formed in the future; therefore, they must always be sensitive to the environment and community that can undermine the development of knowledge among society. They ought to understand the state of the society which needs guidance that can bring prosperity to a country. Therefore, they must work with utmost effort to create a knowledgeable society and this situation can only be achieved when there is a two-way relationship between academics and legislators in harmonizing their respective responsibilities. Academics must have a responsible attitude towards any opinion expressed to the public.

New ideas or inventions should be encouraged in the higher education institutions. The institutions should encourage, challenge and support the key-players in the academic field (academics and students) to articulate the ideas or create inventions and innovations that can improve society. Intellectual debates should also be encouraged in relevant institutions to produce mastery (academics and students) with critical and bold thinking in voicing opinions that are based on legitimate and relevant authorities. In this case, all parties shall have an open mind in accepting the opinions expressed by each party. The opinions, ideas or inventions should be consistent with the prescribed and limitations of the legal guidelines.

The institutions should re-look and re-examine the course contents in order to suit the current demands and development. The application of religious values in learning will contribute to the mutual respect. When society is led by religious values, then by itself, a violation of religious sensitivities can be avoided. In this way, academic freedom practiced will, in itself, impact positively on the development of harmonious knowledge among the people in Malaysia.

Academics and relevant ministries should jointly provide the best input in facilitating the implementation and development of academic freedom in Malaysia. Discussions should be held in a transparent manner between the two parties in discussing the best solution to any problem.

References

- Alatas, S. H. (1977). *Intellectuals in Developing Societies*. [translated as *Intelektual Masyarakat Membangun* by Bambang Supriady (Indonesian) and by Jaafar Abdul Rahim (Malay)]. Kuala Lumpur: DBP.
- al-Attas, S. M. N. (1989). *Islam and the Philosophy of Science*. Kuala Lumpur: ISTAC.
- Al-Faruqi, A. R. H. (2015). *Konsep Ilmu Dalam Islam* [the concept of knowledge in Islam]. *Jurnal Kalimah*, 13(2), 223-234.
- Al-Hudawi, S. H. V., Musah, M. B., & Fong, R. L. S. (2014). Malaysian National Philosophy of Education Scale: PCA and CFA Approaches. *Asian Social Science*, 10(18), 163.
- Al-Kasani, A., & bin Masud, B. (2005). *Badai' Al-Sanai'* (Vol. II). Beirut: Dar Al-Fikr.
- al-Khattab, N. (2007). *English Translation of Sunan Ibn Majah* (Vol. 1). Riyadh: Darussalam
- Abdus-Salam Basuni. (2007). *The Freedom of Opinion in Islam*. Riyadh, Saudi Arabia: IIPH.
- Definition.net. (2018). *Definition for Bumiputera*. Retrieved <https://www.definitions.net/definition/bumiputera>
- Downs, D. A. (2009). *Academic Freedom: What It Is, What It Isn't, and How to Tell the Difference*. Retrieved from <https://www.jamesmartin.center/acrobat/AcademicFreedom.pdf>
- Emon, A. (2006). Huqūq Allah and Huqūq al-'Ibād: A Legal Heuristic for a Natural Rights Regime, *Islamic Law and Society*, 13(3), 325-391. <https://doi.org/10.1163/156851906778946350>

- Encyclopædia Britannica (2018). Academic Freedom. Retrieved on February 2, 2018. Retrieved from <https://www.britannica.com/topic/academic-freedom>
- Eron, D. (2015). Professor Salaita's Intramural Speech. *American Association of University Professors*, 1. Retrieved from https://www.aaup.org/sites/default/files/Eron_0.pdf
- Facione, P. (1990). *Critical thinking: A statement of expert consensus for purposes of educational assessment and instruction* (The Delphi Report). Retrieved from <http://www.qcc.cuny.edu/SocialSciences/ppecorino/CT-Expert-Report.pdf>
- Finkin, M. W. (2009). *For the Common Good: Principles of American Academic Freedom*. Available from https://books.google.com.my/books?id=OA2RN7a7VvMC&dq=the+concept+of+academic+freedom&hl=en&sa=X&ved=0ahUKEwjW_77SrY7ZAhXGpo8KHQ1mAd0Q6AEIVDAI
- Fisk, G. (1973). Criteria for a Theory of Responsible Consumption. *Journal of Marketing*, 37(2), 24–31. <https://doi.org/10.1177/002224297303700206>
- Fuchs, R. F. (1963). Academic freedom. Its basic philosophy, function, and history. *Law and Contemporary Problems*, 28(3), 431-446. Retrieved from <https://scholarship.law.duke.edu/lcp/vol28/iss3/2>
- Kayrooz, C., Kinnear, P., & Preston, P. (2001). Academic Freedom and Commercialization of Australian Universities Perceptions and experiences of social scientists. *The Australian Institute, Discussion Paper*, 37, 18-20.
- Malmström, S., & Oberleitner, G. (1996). 15th Session of the African Commission on Human and Peoples' Rights. *Netherlands Quarterly of Human Rights*, 14(1), 92-95. <https://doi.org/10.1177/092405199601400109>
- Malik, M. (2014). *Menuju Sejahtera Meraih Bahagia* [Heading towards Harmony Ushering Happiness]. Kuala Lumpur: Grup Buku Karangkrak Sdn. Bhd.
- McGuinness, K. (2002). The Concept of Academic Freedom. Retrieved from <https://books.google.com.my/books?id=Km4mAQAAIAAJ&q=inauthor:%22Kevin+McGuinness%22&dq=inauthor:%22Kevin+McGuinness%22&hl=en&sa=X&ved=0ahUKEwiL3NKUro7ZAhUBpI8KHfa1ASsQ6AEIMjAC>
- Ministry of Education. (2018). The National Education Philosophy. Retrieved from <https://www.moe.gov.my/index.php/en/dasar/falsafah-pendidikan-kebangsaan>.
- Mohamed S. El-Awa (1993). *Punishment in Islamic Law*. Washington, USA: American Trust Publications.
- Mohammad Hashim Kamali (1998). *Freedom of Expression in Islam*. Kuala Lumpur: Ilmiah Publishers Sdn. Bhd.
- Mohammad Shabbir (2002). *Outlines of Criminal Law and Justice in Islam*. Kuala Lumpur: International Law Book Services.
- Sang, M. S. (2009). *Falsafah dan Pendidikan di Malaysia* [Philosophy and Education in Malaysia]. Selangor: Penerbitan Multimedia Sdn. Bhd.
- Muhammad Muhsin Khan (1997). *The Translation of the Meanings of Sahih Bukhari* (Vol. 2). Riyadh: Darussalam Publishers and Distributors.
- Muhammad Muhsin Khan (1997). *The Translation of the Meanings of Sahih Al-Bukhari* (Vol. 9). Riyadh: Darussalam Publishers & Distributors.
- NCERT (2014). *Basics in Education*. India: National Council of Educational Research and Training, 3-4.
- Nota Guru Pelatih. (2011). *Matlamat Falsafah Pendidikan Negara* [Objectives of the National Philosophy of Education]. Retrieved from <http://notagurupelatih.blogspot.com/2011/09/matlamat-falsafah-pendidikan-negara.html>
- Perdana Leadership Foundation. (2018). *Rukun Negara: The National Principles of Malaysia*. Retrieved from <http://www.perdana.org.my/~perdana/index.php/spotlight2/item/rukun-negara-the-national-principle-of-malaysia>
- Rohlf, M. (2018). *Immanuel Kant: The Stanford Encyclopedia of Philosophy*. Retrieved from <https://plato.stanford.edu/archives/sum2018/entries/kant/>
- Sudan, S. A. (2017). The Nature of Islamic Education. *International Journal of Contemporary Research*, 7(3), 22-27.
- Tantawi, M. S. (2015). *Adab Dialog Dalam Islam* [Dialogical Etiquette in Islam]. Kuala Lumpur: ITBM.
- Tanenbaum (2018). 7 Principles for Inclusive Education: Summary. Retrieved from <https://www.tanenbaum.org>

- UNESCO (1997). Protecting academic freedom is as relevant as ever. Retrieved from <https://en.unesco.org/news/protecting-academic-freedom-relevant-ever>
- UNESCO (1997). *Protecting academic freedom is as relevant as ever*. Retrieved from <https://en.unesco.org/news/protecting-academic-freedom-relevant-ever>
- United Nations (2014). Universality of Human Rights Gives Them Power, Secretary-General Says, in Message on 50th Anniversary Year of Human Rights Declaration (Press Release: SG/SM/6414/OBV/32). Retrieved from <https://www.un.org/press/en/1997/19971205.SGSM6414.html>
- University of Minnesota (1990). *The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics*. Retrieved from <http://hrlibrary.umn.edu/africa/DARDOK.htm>
- University of Minnesota. (2014). The Nineteenth Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development). *Held in Cairo, Arab Republic of Egypt, 9-14 Muharram 1411H (31 July to 5 August 1990)*. U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993). Retrieved from <http://www1.umn.edu/humanrts/instree/cairodeclaration.html>
- Van Alstyne, C. (1973). *Attrition Rates of College Students*. Unpublished manuscript, American Council on Education, Washington, DC.
- Van Rossum, E. J., & Hammer, R. (2010). *The Meaning of Learning and Knowing*. Rotterdam: Sense Publishers.
- Yasin, R. F. B. F., & Jani, M. S. (2013). Islamic education: the philosophy, aim, and main features. *International Journal of Education and Research*, 1(10), 5-18.
- Zaini Ujang (2009). *The Elevation of Higher Learning*. Kuala Lumpur: ITNB.